

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference 105,628 McK
Technology Center 2800

MICHAEL SASGES,

Application 09/846,682,
Junior Party,

v.

CARL C. PETERSEN, FREDERICK L. GLESIUS,
GREGGORY A. SCHNEIDER and LEO R. LOMBARDO,

Patent 6,057,917,
Senior Party.

Before: Fred E. McKelvey, *Senior Administrative Patent Judge.*

DECLARATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Part A
Declaration of Interference

An interference is declared pursuant to 35 U.S.C. § 135(a).
Details of the application, patent, count and claims designated
as corresponding or as not corresponding to the counts appear in
Parts E and F.

Part B
Designation to manage

Senior Administrative Patent Judge Fred E. McKelvey has been
designated to manage the interference. 37 CFR § 41.104(a).

Part C
Standing Order

A copy of a STANDING ORDER (3 Jan. 2006) (Paper 2)
accompanies this DECLARATION.

The STANDING ORDER applies to this contested case.

Part D
Initial Conference Call and Motions Lists

Conference Call

A conference call to set dates for action in this contested case
is scheduled for:

2 p.m. (1400 hours Eastern Time) on 11 February 2009.

The Board will initiate the conference call.

1 Motions Lists

2 On or before:

3 **Noon (1200 hours Eastern time) on 04 February 2009,**

4 each party shall file, and on or before:

5 **5:00 p.m. (1700 hours Eastern time) on 04 February 2009,**

6 each party shall serve a notice stating the relief the party requests,

7 i.e., a motions list including motions the party seeks authorization to

8 file. 37 CFR §§ 41.120(a) & 41.204; STANDING ORDER ¶¶ 104.2.1,

9 120 & 204.

10 The default procedure for filing and serving motions lists is that
11 motions lists are to be filed before being served.

12 By filing before service, one party will not have access to an
13 opponent's motions list prior to the filing of the party's motions list.

14 Nevertheless, the parties may mutually agree to discuss and
15 serve motions lists at any time prior to the date and time motions lists
16 are due.

17 The following shall be included in motions lists.

18 (1) Proposed motion for benefit (i.e., to be accorded an
19 earlier constructive reduction to practice) - must identify the
20 application(s) for which benefit will be sought.

21 (2) Proposed motion to attack benefit - must identify the
22 application(s) to be attacked.

23 (3) Proposed motion seeking judgment against an
24 opponent based on alleged unpatentability - must identify the
25 statutory basis for the alleged unpatentability and:
26
27

1 (a) if based on prior art, identify the prior art;
2 (b) if based on the first paragraph of 35 U.S.C.
3 § 112, (i) identify whether written description, enablement or best
4 mode will be the basis for the motion, and (ii) briefly identify the basis
5 for any alleged unpatentability;
6 (c) if based on an alleged failure to comply
7 with 35 U.S.C. § 135(b), briefly identify the reason;
8 (d) if based on the second paragraph of
9 35 U.S.C. § 112, identify the limitation which is believed to be
10 indefinite.
11 (4) Proposed motion based on no interference-in-fact
12 shall briefly identify the reason no interference-in-fact is believed to
13 exist.
14 (5) Proposed motion to designate additional claims as
15 corresponding to a count or as not corresponding to a count shall
16 identify the claims involved.
17 (6) Proposed motion to add or substitute a new count
18 shall explain why the added or substitute count is necessary.
19 A motions list shall not contain any "reservation clause"
20 whereby a party purports to reserve a right to file additional motions.
21 Additional motions are those authorized by the Board consistent with
22 the rules.
23 A sample schedule for taking action during the motions phase
24 of the interference appears as Form 2 (page 69) of the STANDING
25 ORDER.

1 Counsel are encouraged to discuss the schedule prior to the
2 conference and agree on times for taking action generally consistent
3 with the sample schedule.

4 A typical motions phase last about eight (8) months.

5 The parties should be prepared at the conference to justify any
6 request for shorter or longer time periods.

7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Part E

**Identification of the Parties
Assignment of Exhibit Numbers
Initiating Settlement Discussions**

Junior Party

Inventor: Michael Sasges, Canada
Application: Application 09/846,682, filed 02 May 2001
Patent Publication: US 2002/0162970 A1
Title: Optical sensing and control of ultraviolet fluid treatment dynamics
Real party in interest: Trojan Technologies, Inc.

Senior Party

Inventors: Carl C. Petersen, Ohio
Frederick L. Glesius, Ohio
Greggory A. Schneider, Ohio
Leo R. Lombardo, Ohio
Patent: U.S. Patent 6,057,917,¹
issued 02 May 2000,
based on application 09/259,405,
filed 26 February 1999
Title: Optical sensing and control of ultraviolet fluid treatment dynamics
Real party in interest: General Electric Company

¹ The records of the USPTO show that (1) a maintenance fee of \$890 was paid on 09 September 2003; (2) a maintenance fee of \$2,360 was paid on 23 April 2008, and (3) a late-fee of \$130 was paid on 23 April 2008.

1

2

Assignment of Exhibit Numbers

3

Senior party: Exhibit Numbers 1001 through 1999.

4

Junior party: Exhibit Numbers 2001-2999.

5

Board: Exhibit Numbers 3001-3999.

6

7

Initiating Settlement Discussions

8

STANDING ORDER ¶ 126.1 (Paper 2, pages 40-41)

9

10

The senior party is responsible for initiating settlement

11

discussions required by the STANDING ORDER.

Part F

Count and Claims of the Parties

Count 1

An apparatus according to claim 1 or claim 7 of
U.S. Patent 6,507,917 or a method according to claim 15
of U.S. Patent 6,507,917

Apparatus claim 1 reads:

An ultraviolet light fluid sterilizing apparatus comprising:

- at least one ultraviolet light source configured to irradiate a fluid with ultraviolet light to sterilize the fluid;
- an ultraviolet light sensitive silicon carbide photodiode, said photodiode capable of generating a signal proportional to the intensity of ultraviolet light detected by said photodiode; and
- a sealed outer housing comprising an optically transparent window, said silicon carbide photodiode located inside said housing and adjacent said transparent window.

1 Apparatus claim 7 reads:

2 An ultraviolet light fluid sterilization apparatus
3 comprising:
4 a fluid chamber:
5 at least one ultraviolet light source configured to emit
6 ultraviolet light into said fluid chamber; and
7 at least one ultraviolet light sensor comprising a silicon
8 carbide photodiode.

9
10 Method claim 15 reads:

11 A method of sterilizing a fluid utilizing an ultraviolet
12 light fluid sterilization apparatus, the sterilization
13 apparatus comprising a fluid chamber, at least one
14 ultraviolet light source, and at least one ultraviolet light
15 sensor, each ultraviolet light source configured to emit
16 ultraviolet light into the fluid chamber, and each ultraviolet
17 light sensor comprising a silicon carbide photodiode, said
18 method comprising the steps of:

19 flowing a fluid into the chamber of the ultraviolet
20 light sterilization apparatus;

21 irradiating the fluid with ultraviolet light from the at
22 least one ultraviolet light source of the sterilization
23 apparatus;

24 measuring the intensity of the ultraviolet light in the
25 fluid chamber with the ultraviolet light sensor;

26 sensing an output signal from the ultraviolet light
27 sensor with the controller; and

1 adjusting the level of ultraviolet light intensity in the
2 chamber with an output signal from the controller to the
3 light source.

4

5 The claims of the parties are:

6

7 Sasges: 1-21

8

9 Petersen: 1-21

10

11 The claims that correspond to Count 1 are:

12

13 Sasges: 1-21

14

15 Petersen: 1-21

16

17 The claims that do not correspond to Count 1 are:

18

19 Sasges: None

20

21 Petersen: None

22

23

24 The parties are accorded an earlier constructive reduction to
25 practice (i.e., benefit for the purpose of priority) of the following
26 applications:

27 Sasges: None

28

29 Petersen: None

Part G
Heading to be Used on Papers

The following heading shall be used on all papers filed in this
interference [STANDING ORDER ¶ 106.11 (Paper 2, page 20)].

Filed by: [name of party] Paper _
[Name of attorney] Date filed: [enter date emailed to Board]
[Email address of attorney]
[Telephone number of attorney]

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference 105,628 McK
Technology Center 2800

MICHAEL SASGES,

Application 09/846,682,
Junior Party,

v.

CARL C. PETERSEN, FREDERICK L. GLESIUS,
GREGGORY A. SCHNEIDER and LEO R. LOMBARDO,

Patent 6,057,917,
Senior Party.

Title of Paper, e.g., [Name of party] MOTION 1

1
2
3
4
5
6
7
8
9
10
11
12
13

Part H
Order Form for Requesting File Copies

When requesting file copies, a party shall use STANDING ORDER Form 4 (page 71).
Use of form 4 will expedite processing of any request.
A party should attach to any request for file copies a photocopy of Part E (for involved files) and Part F (for benefit files) of this DECLARATION with a hand-drawn circle around the patent and application files for which a copy of a file wrapper is requested.
The parties are advised that a single order for file copies may be filled by the Office of Public Records at more than one time.
STANDING ORDER ¶ 109.2 (Paper 2, pages 25-27).

1 **Part I**
2 **Required Paragraph of Affidavits and Declarations**
3

4 The Board has experienced cases in which a witness has
5 belatedly advanced reasons why the witness would be unable to
6 appear for cross examination at a reasonable time and place in the
7 United States.

8 Consequently, to prevent surprise and hardship to the party
9 relying on the testimony of a witness, the following paragraph must
10 be included on the signature page of all affidavits (including
11 declarations) filed in this case. STANDING ORDER ¶ 157.2
12 (Paper 2, pages 52-53).

13
14 In signing this affidavit, I understand that the affidavit will
15 be filed as evidence in a contested case before the Board
16 of Patent Appeals and Interferences of the United States
17 Patent and Trademark Office. I also acknowledge that I
18 may be subject to cross examination in the case and that
19 cross examination will take place within the United States.
20 If cross examination is required of me, I will appear for
21 cross examination within the United States during the
22 time allotted for cross examination.

1 (via Federal Express):
2
3 Agent for Sasges
4 (real party in interest:
5 Trojan Technologies, Inc.):
6
7 Omar Nassif
8 Gowling LaFleur Henderson LLP
9 Suite 1600
10 1 First Canadian Place
11 100 King Street West
12 Toronto, Ontario
13 Canada M5X 1G5
14
15 Tel: 416-862-5775
16 Fax: 416-862-7661
17 Email: omar.nassif@gowlings.com
18
19 Attorney for Petersen
20 (real party in interest
21 General Electric Co.):
22
23 John S. Beulick
24 Armstrong Teasdale LLP
25 One Metropolitan Square, Suite 2600
26 St. Louis, MO 63102-2740
27
28 Tel: 314-621-5070, ext. 7426
29 Fax: 314-612-2227
30 Email: jbeulick@armstrongteasdale.com